

Distributed at the meeting
Item 6.

Berkeley Tenant Opportunity to Purchase Act

*Rent Board Presentation
June 16, 2022*

By:

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Agenda:

TOPA Overview

TOPA & Rent Control

Summary of Major Policy Updates

Regional TOPA/COPA Movements

Growing Funding for Implementation

TOPA Working Group



Illustration by Emma McIlveen Rose of 10th St. residents, who worked with NCLT to purchase their building.



BERKELEY TENANTS UNION



Plus 40+ endorsers:
<https://yes2topa.org/endorsers>

Tenant Opportunity to Purchase Act ("TOPA")

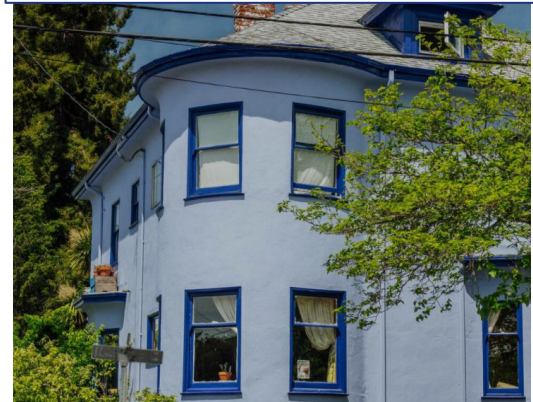
The Tenant Opportunity to Purchase Act (TOPA) is a proposed local law that will stabilize existing housing for Berkeley renters to stay in the community.

TOPA will provide renters with the first opportunity to purchase the rental property they live in, or work with a nonprofit to purchase it, when the owner decides to sell.

Why TOPA?

1. Bay Area housing crisis
2. Empower tenants, expand ownership opportunities & affordability
3. COVID-19 - keeping people in their homes

*Choice and voice for tenants -
keeping our neighbors in Berkeley!*



How It Works

Process Overview: TOPA Sale



TOPA & Rent Control/Eviction Protections

- *TOPA will not impair the rights of tenants under Berkeley's Rent Stabilization & Eviction for Good Cause Ordinance*
- *TOPA complements the existing scheme of affordability restrictions and tenant protections in the Rent Stabilization & Eviction for Good Cause Ordinance by ensuring similar, and in some cases stronger, restrictions and protections are retained when properties transfer ownership*
- *Any tenant who resides in a rental unit at the time of a TOPA sale cannot be evicted based on failure to meet income restrictions or other eligibility requirements.*

<i>If a rent controlled unit is purchased by...</i>	RSO's Rent Control Coverage	TOPA's Permanent Affordability Requirements
<p>Scenario 1:</p> <p>Tenant(s) directly or indirectly through legal entity</p>	<p><i>Possibly exempt</i></p> <p><i>For example, a unit purchased by a nonprofit coop that is majority tenant owned and controlled is exempt (BMC 13.76.050.C))</i></p>	<p><i>Reinstates rent control coverage if exempt</i></p> <p><i>Vacant units subject to permanent affordability deed restrictions (if utilizing City financial assistance)</i></p>
<p>Scenario 2:</p> <p>Qualified Nonprofit - 501c3 org (i.e., CLT)</p>	<p><i>Exempt, if the unit is rented to low income tenant and subject to regulatory agreement with affordability restrictions</i></p> <p><i>Rent control protections preserved for continuing tenants (BMC 13.76.050.K)</i></p>	<p><i>Vacant units subject to permanent affordability deed restrictions</i></p>
<p>Scenario 3:</p> <p>Qualified Nonprofit - CA Cooperative Corporation</p>	<p><i>Not exempt</i></p>	<p><i>Vacant units subject to permanent affordability deed restrictions</i></p>

Policy Status Update

- May 20, 2021: Land Use Policy Committee voted TOPA out of committee to City Council with a qualified positive recommendation
- Jan 27, 2022: City Council held a Worksession on TOPA at a Special Meeting
- Current: Awaiting TOPA's reintroduction to City Council for a full Council vote

Major policy changes as of Jan 27, 2022:

Applicability

- **Exemption for non-investor owned Single Family Homes**
 - Owner cannot be an “investor” as defined by AB 1482 (real-estate investment trust, corporation, or LLC with a corporation as a member)
 - Includes an accessory dwelling unit (ADU) or a junior accessory dwelling unit (JADU)
 - The property must be the Owner’s only rental property in Berkeley
- **Exemption for owner-occupied duplexes**
 - One of the units must be the Owner’s principal residence
 - The property must be the Owners only rental property in Berkeley
- Current version would include vacant rental properties under TOPA and speculation penalty for house flipping (language to be developed by City Attorney’s Office)

Major policy changes as of Jan 27, 2022: *Timelines*

- May 20, 2021 LUPC amendments would have significantly shortened the timelines in the right of first refusal (ROFR) for acceptance of an offer and close of transaction
- This amendment was retracted to preserve the prior offer/acceptance and closing timeframes for ROFR that were based on extensive research from community-based lenders, tenants, housing providers, and realtors.

Major policy changes as of Jan 27, 2022: *Implementation*

- **Implementation Phase-In**

- Notice of Sale to take effect within 30 days following second reading of the Ordinance
- Full implementation of all other TOPA provisions to take effect upon adoption of Administrative Regulations. This will phase full implementation of TOPA when there is adequate staffing and funding to launch the program.

Passing TOPA now will keep tenants housed in the community

- Concerning cases on the rise of Berkeley tenants reporting rental property turnover and risk of displacement
- Tenants need legal rights to purchase their homes - ***can't leave it up to chance!***
- Mitigate risk of rental property turnover to speculators in the wake of the COVID-19 crisis - ***ensure rental properties stay in the hands of the community!***

Passing TOPA now will accelerate additional funding resources

- Funding is key, but we don't need to wait to adopt the policy
- Funding and implementation ecosystem is growing at local, regional, state level; and, philanthropic sources (including Big Tech)
- Significant groundwork has also been established on implementation. The Partnership for the Bay's Future provided capacity support to work with Health, Housing, and Community Services Department in developing a TOPA implementation plan with HHCS serving a key role.

*Passing TOPA now will
catalyze existing regional TOPA/COPA movements*

- Oakland
- East Palo Alto
- South Bay
- Sacramento
- LA County

*WE REQUEST THE RENT BOARD'S SUPPORT
IN URGING CITY COUNCIL TO BRING TOPA
TO BERKELEY NOW!*

THANK YOU!